

***REMARKS***

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 1-5, 7-11, and 13-17 have been amended. Accordingly, claims 1-18 are presented for examination.

The claims were rejected under 35 USC 112 for indefiniteness. The claims have been amended to obviate this rejection. In particular, in many places in the claims the term “product” has been changed to –item--. The term “item” is intended to be interpreted broadly to encompass whatever items are sold by the suppliers and distributors that ultimately end up either as a component part of a product that is sold by the outlets, or are sold by the outlets without modification, i.e., the item is the product that is sold.

Applicants are unclear on the examiner’s rejection based on a lack of antecedence in claim 1. If this has not been corrected by the current amendments, then please provide more detail on this point.

Claims 1-18 were rejected under 35 USC 102 as being anticipated by the article “E-Chain Solutions Limited.” The claims were further rejected under 35 USC 103 over Noori in view of “Cover Story: Supply Chain Management Quarterly Efficient Foodservice Response Moving Toward Efficiency.” These rejections are traversed and reconsideration thereof is respectfully requested.

The claims have been amended to clarify the limitation to an independent supply chain operation, wherein a large plurality of the outlets, suppliers and distributors are independent, but are dealing with the products of a franchise operation. Because of the

overall context of independence, the individual suppliers have no visibility into the system data, but for the present system. This is a particular problem in the context of franchise restaurants selling food products that operate on a just-in-time basis. If a bad order of meat has been distributed to the multiple restaurants, immediate action must be taken to initiate a recall, but the recall must not be directed at the entire system, but only to the restaurants serviced by the supplier from which the bad order of meat originated. But the independent suppliers have no visibility into the distribution system for the independent restaurants. This type of recall problem can overwhelm a restaurant system that could have, for example over 250 suppliers, 25-30 distributors, and 7000 plus restaurants.

Referring to the cited references, at the outset it is noted that they are non-enabling, i.e., they do not teach one of ordinary skill how to make and use the claimed invention. This is particularly so for the “E-Chain Solutions Limited” article, which completely fails to disclose an operable system, much less one that meets applicants’ claims. Of equal importance, none of these references disclose the features related to an independent supply chain operation composed of a large plurality of independent outlet, supplier and distributor members. More importantly, none of these references teach an independent supply chain manager receiving on his computer product sales data from the plurality of independent outlets, as well as the order forms indicating an amount of items ordered by each of the independent outlets, as well as receiving quality data from the various supplier and/or distributors, as well as tracking the location of the items ordered from the distributors, so that the independent supply chain manager can electronically initiate a recall notice. The critical elements of the independence of a large plurality of the supply chain members, and the essential functions performed by the independent supply chain manager in this context are missing from these references. In the independent supply chain context, only the supply chain manager of the present system has visibility into the correct data so as to be able to manage recalls effectively. This is particularly the case for just-in-time distribution operations for perishable items that will be consumed very soon after delivery, so that tracking and an immediate response is critical. Thus, even if these references could be combined (which they cannot), the deficiencies noted would still be present.

In view of the foregoing amendments and remarks, reconsideration and withdrawal of the rejections is requested and an early passage to issue is requested.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 4/27/04

By 

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 672-5485  
Facsimile: (202) 672-5399

William T. Ellis  
Attorney for Applicant  
Registration No. 26,874